

CUSTOMER NO.: 24498**Serial No. 10/584,646**

Response to First Office Action dated 7/24/08

Response dated: 9/29/08

PATENT**PD040004****REMARKS**

In the First Office Action, the Examiner noted that claims 1-9 are pending in the application and that claims 1-9 stand rejected. By this response, claims 2 and 7 have been cancelled and claims 10-17 have been added. Claims 1, 3, 5-6 and 9 have been amended to more clearly define the invention of the Applicant.

In view of the amendments presented above and the following discussion, the Applicant respectfully submits that none of these claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102 or rendered obvious under the provisions of 35 U.S.C. § 103. Thus, the Applicant respectfully submits that all of these claims are now in allowable form.

Objections**A. Specification**

The Examiner objected to the Applicant's Title of the Invention as not being descriptive.

In response, the Applicant has amended the Title of the Invention to recite "APPARATUS AND METHOD FOR READING FROM AND/OR WRITING TO OPTICAL RECORDING MEDIA". Having done so, the Applicant respectfully submits that the basis for the Examiner's objection to the Applicant's Specification has been removed and requests that the objection be withdrawn.

Rejections**A. 35 U.S.C. §102**

The Examiner rejected the Applicant's claims 1, 6, 8 and 9 under 35 U.S.C. § 102(e) as being anticipated by Park (U.S. Patent No. 6,747,931). The rejection is respectfully traversed.

The Examiner alleges that regarding claim 1, Park teaches an apparatus and method for reading from and/or writing to an optical recording medium including all of the aspects of the Applicant's invention. The Applicant respectfully disagrees.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim"

(Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452,

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221 USPQ 481, 485 (Fed. Cir. 1983)). (emphasis added). The Applicant submits that Park fails to disclose each and every element of the Applicant's claimed invention arranged as in at least the Applicant's amended claim 1, which specifically recites:

An apparatus for reading from and/or writing to at least a first and a second type of optical recording media, comprising:

a) means for performing a focus search cycle for the first type of optical recording medium with a focus error signal and a data signal,

b) means for comparing the focus error signal and the data signal to respective thresholds and for indicating the presence of an optical recording medium,

c) means for detecting a focal zero crossing based on the focus error signal, and

d) means for adapting settings to an operation mode for the second type of optical recording medium in case the data signal does not have a given relation to the respective threshold near the focal zero crossing, which distinguishes between a high reflectivity optical recording medium and a low reflectivity optical recording medium. (emphasis added).

The Applicant submits that in contrast to the invention of the Applicant, Park discloses a method for discriminating the type of an optical recording medium by performing a focus search by rotating a mounted disk and identifying whether the currently mounted disk belongs to a specific type on the basis of the detected focus search level. In Park, an RF level and a focus error signal level is detected and the type of the currently mounted disk is identified on the basis of the detected signal.

Specifically, Park discloses in column 2, lines 40-42 a possibility to discriminate which specific type of CD is currently mounted according to the information whether it is a high-reflectivity disk or a low-reflectivity disk. At this stage, it was already decided that the mounted disk belongs to the CD type disks. In addition, Park discloses on page 2, line 65 – page 3, line 3 that relying on the reflectivity of the disk does not give a reliable indication, because the reflectivity of a high-reflectivity disk may be lowered down and, therefore, the high-reflectivity disk may be misjudged as being a low reflectivity-disk.

In contrast to Park, In the Invention of the Applicant, at least claim 1 as amended teaches and claims a way to overcome the above described deficiencies of

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the prior art, including Park. That is, the Applicant teaches and claims using a given relation of the data signal to the respective focal zero point and distinguishing between a high-reflectivity optical recording medium and a low-reflectivity optical recording medium at the same time to reliably decide on the type of optical recording medium. Such aspects are not disclosed or suggested by Park. Furthermore, in contrast to the Applicant's Invention, Park does not disclose a relationship between the reflectivity of the optical recording medium and the signal obtained during the focus search cycle as taught and claimed by the Applicant. The Applicant submits that Park does not teach or suggest using such a relation.

Regarding new claim 10, Park discloses in Fig. 9A and in column 8, lines 32-34 to repetitively perform a focus search cycle. The type of the optical recording medium is decided after these focus search cycles are completed. The Applicant submits, however, that Park does not disclose to decide on the type of optical recording medium before the completion of a focus search cycle as taught and claimed by the Applicant in at least new claim 10. This has the advantage that the decision on the type of optical recording medium can be made faster. Park does not teach or suggest that a decision about the type of disk is possible before the completion of the first focus search cycle as taught and claimed by the Applicant's new claim 10. Therefore, new claim 10 is new and inventive over Park.

Regarding new claim 17, as stated above, Park discloses first to finish all focus search cycles and afterwards to decide what type of optical recording medium is apparent and adapting the setting to this type of optical recording medium. Therefore, the Applicant submits that abbreviating a focus search cycle with current settings and continuing the focus search cycle with settings for the other type of optical recording medium as taught and claimed by the Applicant in at least claim 17 is not disclosed by Park. This has the advantage that adaptation to the correct type of optical recording medium can be performed faster. Park does not teach or suggest that the focus search cycle can be abbreviated at this time. Therefore, new claim 17 is new and inventive over Park.

Therefore and for at least the reasons recited above, the Applicant submits that Park fails to disclose each and every element of the Applicant's claimed invention as claimed in at least the Applicant's claim 1.

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Therefore, the Applicant submits that for at least the reasons recited above, the Applicant's claims 1 and 10 are not anticipated by the teachings of Park, and, as such, fully satisfy the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Likewise, the Applicant's independent claims 6, 13 and 17 claim similar relevant features as claimed in the Applicant's claims 1 and 10. As such, the Applicant submits that claims 6, 13 and 17 are also not anticipated by the teachings of Park, and, as such, fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

Furthermore, the Applicant's dependent claims 8 and 9 depend either directly or indirectly from the Applicant's independent claim 6 and recite additional features thereof. As such, the Applicant submits that at least because the Applicant's claim 6 is not anticipated by the teachings of Park, the Applicant further submits that the Applicant's dependent claims 8 and 9, which depend either directly or indirectly from the Applicant's claim 6, are also not anticipated by the teachings of Park, and, as such, fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

B. 35 U.S.C. § 103

The Examiner rejected the Applicant's claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Park in view of Yonekubo et al. (U.S. Patent No. 4,750,152, hereinafter "Yonekubo").

The Examiner applied Park to the Applicant's claim 4 as applied for the rejection of the Applicant's claim 1. As described above, Park absolutely fails to teach, suggest or anticipate at least the Applicant's claim 1. As such, and at least because Park fails to teach, suggest or anticipate the Applicant's claim 1, the Applicant further submits that Park also fails to teach, suggest or anticipate the Applicant's claim 4, which depends directly from the Applicant's claim 1.

The Applicant further submits that the teachings of Yonekubo fail to bridge the substantial gap between the teachings of Park and the invention of the Applicant. That is, the Applicant submits that Yonekubo absolutely fails to teach or suggest

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using a given relation of the data signal to the respective focal zero point and distinguishing between a high-reflectivity optical recording medium and a low-reflectivity optical recording medium at the same time to reliably decide on the type of optical recording medium and a relationship between the reflectivity of the optical recording medium and the signal obtained during the focus search cycle as taught in the Applicant Specification and claimed by at least the Applicant's claim 1.

Therefore, the Applicant submits that the Applicant's claim 1 is not rendered obvious by the teachings of Park and Yonekubo, alone or in any allowable combination, and, as such, fully satisfies the requirements of 35 U.S.C. § 103 and is patentable thereunder. As such and at least because the teachings of Park and Yonekubo, alone or in any allowable combination, fail to render obvious the invention of the Applicant's claim 1, the Applicant further submits that dependent claim 4, which depends directly from the Applicant's claim 1, is also not rendered obvious by the teachings of Park and Yonekubo, alone or in any allowable combination, and, as such, fully satisfies the requirements of 35 U.S.C. § 103 and is patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

Conclusion

Thus the Applicant submits that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. § 102 or rendered obvious under the provisions of 35 U.S.C. § 103. Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion, it is respectfully requested that the Examiner telephone the undersigned.

The Applicant would like to sincerely thank the Examiner for identifying allowable subject matter in the above identified patent application.

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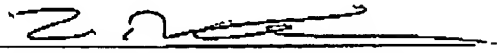
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